

AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 262

Introduced by Senator Kuehl

February 18, 2003

An act to amend Section 4458 of the Government Code, and to amend Sections 19954 and 19958.5 of, and to add Section 19958.6 to, the Health and Safety Code, relating to building standards.

LEGISLATIVE COUNSEL'S DIGEST

SB 262, as amended, Kuehl. Buildings: access: enforcement.

Existing law authorizes the district attorney, a city attorney, the Attorney General or, in certain instances, the Department of Rehabilitation acting through the Attorney General, to bring an action to enjoin a violation of prescribed requirements relating to access to buildings by handicapped persons.

This bill would authorize the county counsel to also bring those actions. The bill would additionally authorize any of those officials to bring a civil action to impose civil penalties on persons who violate prescribed statutes or regulations relating to access to buildings by handicapped persons. The bill would prescribe the amounts, according to circumstances set forth in the bill, and the disposition of those civil penalties.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4458 of the Government Code is
2 amended to read:

1 4458. The district attorney, the city attorney, the county
2 counsel, or the Attorney General may bring an action to enjoin a
3 violation of this chapter.

4 SEC. 2. Section 19954 of the Health and Safety Code is
5 amended to read:

6 19954. The district attorney, the city attorney, the county
7 counsel, the Department of Rehabilitation acting through the
8 Attorney General, or the Attorney General may bring an action to
9 enjoin any violation of this part.

10 SEC. 3. Section 19958.5 of the Health and Safety Code is
11 amended to read:

12 19958.5. The district attorney, the city attorney, the county
13 counsel, the Department of Rehabilitation acting through the
14 Attorney General, or the Attorney General may bring an action to
15 enjoin a violation of this part.

16 SEC. 4. Section 19958.6 is added to the Health and Safety
17 Code, to read:

18 19958.6. (a) A person who violates Section 19952, 19955,
19 19955.5, 19956, 19956.5, or 19959 or any of the regulations
20 implementing those sections that have been adopted by the
21 California Building Standards Commission pursuant to Section
22 4450 of the Government Code shall be subject to a civil penalty of
23 two thousand five hundred dollars (\$2,500) for each violation.

24 (b) A person who remains in violation of the statutes and
25 regulations specified in subdivision (a) for more than 90 days after
26 receipt of written notice of the violation shall be subject to an
27 additional civil penalty of not less than five hundred dollars (\$500)
28 nor more than two thousand five hundred dollars (\$2,500) for each
29 violation ~~and~~ for each additional day that ~~a~~ the violation remains.
30 In assessing the amount of the civil penalty under this subdivision,
31 the court may consider relevant circumstances presented by the
32 parties to the case, including, but not limited to, the following:

- 33 (1) The nature and seriousness of the violations.
34 (2) The number of violations.
35 (3) The persistence of the violations.
36 (4) The willfulness of the defendant's conduct.
37 (5) The defendant's assets, liabilities, and net worth.
38 (6) Any economic benefit to the defendant resulting from the
39 violation.

1 ~~(7) The number of individuals with disabilities deprived of~~
2 ~~access because of the violations.~~

3 (c) When imposing penalties under either subdivision (a) or
4 (b), the court shall impose a separate civil penalty for each
5 violation of the statutes and implementing regulations mentioned
6 in subdivision (a).

7 (d) Every civil action brought under this section shall be
8 brought in the name of the people of the state by the district
9 attorney, the city attorney, the county counsel, the Department of
10 Rehabilitation acting through the Attorney General, or the
11 Attorney General. An action brought in the name of the people of
12 the state shall not preclude an action being brought by an injured
13 person *under other applicable laws*.

14 (e) (1) If the action is brought by the Department of
15 Rehabilitation acting through the Attorney General, or by the
16 Attorney General, the civil penalties shall be paid to the Treasurer.
17 Upon prevailing, the Attorney General shall be entitled to recover
18 all costs of investigating and prosecuting the action, including
19 expert fees, reasonable attorneys' fees, and costs.

20 (2) If the action is brought by the district attorney, or the county
21 counsel, the civil penalties shall be paid to the treasurer of the
22 county in which the judgment was entered.

23 (3) If the action is brought by the city attorney, the civil
24 penalties shall be paid to the treasurer of the city bringing the
25 action.

